

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

Michael Le and Dung Le,

Plaintiff

vs.

United States of America and
United States Postal Service

Defendant

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Civil Action No. 22-cv-00147

**PLAINTIFFS' ORIGINAL
COMPLAINT**

COME NOW Michael Le and Dung Le Plaintiffs, by and through counsel, and file their Original Complaint complaining of the United States of America and the United States Postal Service and would respectfully show unto the Court as follows:

I.

PARTIES

1. Plaintiffs, MICHAEL LE AND DUNG LE, are individuals residing in Grand Prairie, Tarrant, Texas. Plaintiffs are husband and wife.

2. Defendant, UNITED STATES OF AMERICA, may be served pursuant to the Federal Rules of Civil Procedure by serving a copy of the summons and complaint on The Honorable Chad Meachum, Acting United States Attorney, Burnett Plaza, Suite 1700, 801 Cherry Street, Unit #4, Fort Worth, Texas 76102-6882 and by sending a copy of the summons and complaint by certified mail to The Honorable Merrick Garland, U.S. Attorney General , U.S. Department of Justice, 950 Pennsylvania Avenue NW, Washington, D.C 20520-0001.

3. Defendant United States Postal Service is an independent agency of the executive branch of the United States federal government. Pursuant to 39 C.F.R. §2.2, the USPS may be served with process by serving a copy of the Complaint along with a summons issued by the Court upon its General Counsel and Executive Vice President, Thomas J. Marshall at 475 L'Enfant Plaza, SW, Washington, D.C. 20260-1100.

II.

JURISDICTION AND VENUE

4. Jurisdiction is pursuant to the Federal Tort Claims Act, 28 U.S.C. §2671, et seq and under 42 U.S.C. §1331 because the case poses a federal question. Venue is proper in this court because Plaintiffs reside within the boundaries of the Fort Worth Division and because the acts and omissions at issue occurred within the Fort Worth Division.

III.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

5. Plaintiffs filed a Claim for Damage, Injury or Death, Standard Form 95, Michael and Dung Le with the United States Postal Service. The form was complete and contained the required information pursuant to the Federal Tort Claims Act.

6. The incident made the basis of this claim occurred on May 4, 2018. Thereafter, Plaintiffs timely filed their administrative claim as it was filed within two years from the date of the incident. Six months have passed since Plaintiffs filed their administrative claim. The Agency has not taken final agency action.

7. Since more than six months has elapsed since Plaintiffs filed their administrative claim and the Agency has failed to take final action, Plaintiffs have sufficiently exhausted the administrative process and timely file this civil action.

IV.

FACTS

8. On May 4, 2018, Michael Le was leaving his home to pick his son up from school. His home is located at 2752 Excalibur Drive in Grand Prairie, Tarrant County, Texas. He backed his car to the edge of the driveway and the street, stopped and looked both ways. There was not anyone coming from either direction. There was a postal delivery truck on the opposite side of the road, at the community mailbox. Mr. Le proceeded to back out across the street so he could then proceed to his son's school. He came to a complete stop and shifted his vehicle into "Drive".

9. As he was beginning to apply the accelerator to go forward, Mr. Le's vehicle was struck in the rear passenger side by the postal delivery vehicle being operated by Jillian Williams in the course and scope of her employment as a mail carrier with the United States Postal Service. Ms. Williams began backing the postal delivery vehicle after Mr. Le had commenced his movement into the street.

10. At the time of the impact, Mr. Le's foot was already on the accelerator pedal and had depressed same such that his vehicle had begun moving forward at the time of impact. As it crossed the street, and reentered his driveway and crossed his yard, Mr. Le consciously realized that for some reason he was not able to move his right leg and foot to remove it from the accelerator and apply the brake. As the nightmare continued, Mr. Le's vehicle crossed his side yard, crashed through the fence and proceeded to crash directly into his neighbor's home.

11. Following the accident and while still at the scene, Ms. Williams was emotionally upset. She told Randy Capote, a Baptist pastor, that she had a package (that happened to be intended for Pastor Capote's house) which would not fit in the large mailbox in the community mailbox, and

she had been backing the postal delivery truck back to his house when she struck Mr. Le's vehicle. She admitted that she had been trained by the post office not to back up her vehicle. It turns out that the postal service has had a standard for its drivers not to back up since at least 2007. This is because visibility to the rear of the postal delivery truck is almost nonexistent, and it is not safe to back up without assistance.

12. Mr. Le was initially seen at the scene by Grand Prairie Fire Department EMTs. Although, Mr. Le complained of neck pain at the scene, Mr. Le believed he would be okay and declined to be taken to the hospital.

13. Mr. Le walked to his driveway and was standing by another of his vehicles when he lost the ability to stand and slumped to the ground. By this time the Fire Department ambulance had left the scene.

14. Upon the advice and with the assistance of the police officer, Mr. Le was placed in another vehicle and driven to the Baylor Scott & White Emergency Hospital near his home by Mr. Le's son.

15. As a result of his injuries, Mr. Le suffered serious permanent injuries and is a quadriplegic. He has not been able to work; has incurred medical bills substantially in excess of \$1,000,000.00 and will incur further significant damages as more specifically alleged herein.

V.

FEDERAL TORT CLAIMS ACT

16. Plaintiffs incorporate by reference the allegations contained in paragraphs 1 - 15.

17. As alleged above in detail, Ms. Williams was acting within the course and scope of her employment with the United States Postal Service and was negligent or grossly negligent in the operation of the postal delivery vehicle. The United States Postal Service and the United States

of America are responsible for the damages suffered by Plaintiffs, pursuant to the Federal Tort Claims Act.

18. As a result of the above alleged acts, Plaintiff Michael Le has suffered damages, both past and future damages in the form of: reasonable and necessary medical expenses, loss of wages and benefits and wage earning capacity, physical pain and suffering, mental anguish and emotional pain and suffering, physical impairment, disfigurement, loss of enjoyment of life, loss of consortium and other nonpecuniary losses.

19. Plaintiffs Dung Le has suffered damages, both past and future, in the form of loss of household services, necessity to provide care and nursing services to her husband that would not otherwise be a part of the normal marital relationship, loss of consortium and other nonpecuniary losses.

PRAYER

20. WHEREFORE, Plaintiffs pray that the Court issue process and serve Defendants to appear and answer herein and that upon final hearing hereof, that Plaintiffs have and recover judgment, jointly and severally, against Defendants, for the full amount of damages allowed by law, post judgment interest allowed by law, costs of court and all other relief, both general and special, at law and in equity, to which Plaintiffs may justly be entitled.

Respectfully submitted,

/s/ John E. Schulman

John E. Schulman

SBN 17833500/ Fed. I.D. 6959

jschulman@schulmanlaw.com

/s/ Margaret K. Schulman

Margaret K. Schulman, Esq.

State Bar No. 17833900

mschulman@schulmanlaw.com

Schulman Law Firm, P.C.

9400 N. Central Expressway, Ste. 416

Dallas, Texas 75231

(214)361-2580

(214)361-6580 (FAX)

**ATTORNEY IN CHARGE FOR
PLAINTIFF**

/s/Scott A. Stewart

Scott A. Stewart

Texas State Bar No. 19218300

800 West Airport Freeway

Suite 860

Irving, Texas 75062

(214) 350-5551

(866) 850-7666 (FAX)

sastewartlawoffice@gmail.com

Scott Stewart

CO-COUNSEL FOR PLAINTIFF